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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/630,919 | 07/31/2003 | Andrea Naomi Gilbert | BINA-005 | 7583 |

7590 07/26/2004

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| EXAMINER | |
|---|---|
| MENDIRATTA, VISHU K | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3712 | |

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/630,919 | GILBERT, ANDREA NAOMI | |
| | Examiner | Art Unit | |
| | Vishu K Mendiratta | 3712 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *31 July 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 13 rejected under 35 U.S.C. 102(b) as being anticipated by Shoptaugh (3695615).

Shoptaugh teaches a method of playing a game providing a challenge card (6) with plurality of posts (35,37,38) positioned on it, a plurality of planks (12) being positioned between posts (Fig.1, 4, 5), traversing from one side of card to another side (abstract list three lines), positioning planks initially and repositioning (4:1-10).

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over Shoptaugh. Shoptaugh teaches all limitations except that it does not teach a game piece for traversing from post to post.

While Ryan does not provide a game piece to traversing, it does indicate at creating a continuous path from one end to another inherently suggesting moving a player from one side of the card to another.

In the art area of board games it is a common practice to use game pieces to distinguish/demonstrate player positions on the board. By providing game pieces for each player and placing them on card would eliminate any misunderstanding regarding which path belongs to which player. In order to play the game properly, it would have been obvious to provide game pieces with the card.

One of ordinary skill in art at the time the invention was made would have suggested supplying game pieces to play the game smoothly.

5. Claims 1,2,3,4,6-10,14,16-18, 20,21 rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan (3804415).

Claims 1,2, 6,8-10,14: Ryan teaches a game providing a frame (12), a challenge card (16) with plurality of holes (60), posts (24) positioned through them, plurality of planks (20) being positioned between posts contacting posts and cards (Fig.1).

Ryan teaches all limitations except that it does not teach a game piece for traversing from post to post.

While Ryan does not provide a game piece to traversing, it does indicate at creating a continuous path from one end to another inherently suggesting moving a player from one side of the card to another.

In the art area of board games it is a common practice to use game pieces to distinguish/demonstrate player positions on the board. By providing game pieces for

each player and placing them on card would eliminate any misunderstanding regarding which path belongs to which player. In order to play the game properly, it would have been obvious to provide game pieces with the card.

One of ordinary skill in art at the time the invention was made would have suggested supplying game pieces to play the game smoothly.

Applicant may note that rules for playing the game do not further limit the apparatus in the game.

Claims 3,16: Rules for playing do not further limit apparatus in the claim.

Claims 4, 17: Ryan demonstrates holes (60) in card (16) corresponding to all holes in the frame (24).

Claim 7, 18: Ryan teaches planks of different length (14,18).

Claims 20,21: Cylindrical posts (24) and curved planks (64).

6. Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan in view of Ex.Parte Breslow 192 USPQ 431.

Claim 15: Ryan teaches colored spots on card and that can be interpreted as applicant's printing a picture of a river for playing purposes. The only difference between applicant's card and cited card (16) resides in meaning and information conveyed by printed matter and would not be patentable differences (Ex. Parte Breslow 192 USPQ 431). One of ordinary skill in art at the time the invention was made would have printed indicia on cards to match the theme of the game. Such differences are aesthetic and not patentable.

7. Claim 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan in view of Erlich (4326720).

Ryan teaches all limitations of the claim except that it does not teach attaching a magnet at the underside of playing piece.

Erlich teaches attaching a magnet (26) at the underside to firmly hold the piece on the board. Often it has been seen that players accidentally move the board and lose game piece positions. In order to firmly hold game pieces on the board, it would have been obvious to use magnetic game pieces. One of ordinary skill in art at the time the invention was made would have suggested using magnetic game pieces.

8. Claims 5, 11-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Shoptaugh in view of McNamara (5269531).

Shoptaugh teaches a method of playing a game providing a challenge card (6) with plurality of posts (35,37,38) positioned on it, a plurality of planks (12) being positioned between posts (Fig.1, 4, 5), traversing from one side of card to another side (abstract list three lines), positioning planks initially and repositioning (4:1-10).

Shoptaugh also teaches different lengths of planks (26,28,16,18) and removing and repositioning of planks (4:1-10).

Shoptaugh teaches all limitations of this claim except that it does not teach implementing the game on computer.

McNamara teaches playing a game on programmable computer (3:62-65).

In this day and age placing games on computer is common for the purpose of reaching clients quickly and for reaching a wider population.

One of ordinary skill in art at the time the invention was made would have suggested computer implementation for reaching out to people quickly.

9. Claim 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Shoptaugh in view of McNamara.

Shoptaugh teaches all limitations of this claim except that it does not teach implementing the game on computer.

McNamara teaches playing a game on programmable computer (3:62-65).

In this day and age placing games on computer is common for the purpose of reaching clients quickly and for reaching a wider population.

One of ordinary skill in art at the time the invention was made would have suggested computer implementation for reaching out to people quickly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (703) 306-5695. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vishu K Mendiratta
Primary Examiner
Art Unit 3712

VKM
July 23, 2004